

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE NEW ENGLAND COMPOUNDING)	
PHARMACY, INC. PRODUCTS LIABILITY)	MDL No. 02419
LITIGATION)	Docket No. 1:13-md-2419-RWZ
_____)	
)	
This document relates to:)	
)	
All of the cases against the Box Hill Defendants ¹)	
)	

**AMENDED JOINT LINE FOR EXTENSION OF DISCOVERY DEADLINES TO
SUPPORT PREVIOUS JOINT MOTION TO EXTEND DEADLINES [DKT. 3201]**

The Box Hill Plaintiffs and the Box Hill Defendants (Box Hill Surgery Center, LLC, Ritu T. Bhambhani, M.D., Ritu T. Bhambhani, M.D., LLC), through counsel, jointly file this Line in support of their previous joint motion [Dkt. 3201], filed on November 30, 2016, to amend the discovery deadlines in the Box Hill cases. During the December 2016 Status Conference, the Court agreed that an extension of the discovery deadlines was appropriate given the representations made to the Court jointly by both parties. The parties agreed to meet and confer and provide proposed amended deadlines to the Court. At the January 10, 2017 Status Conference, the parties proposed March 17, 2017 as the deadline to complete common issue expert depositions, and the Court agreed. The parties were then given until January 18, 2017 to propose dates for the additional deadlines. [Dkt. 3268]. After filing a Joint Line for Extension of Discovery Deadlines to Support Previous Joint Motion to Extend Deadlines [Dkt. 3285], the parties determined that there are certain inconsistencies in the proposed Order. Accordingly, the

¹ This pleading applies to the following cases: Handy v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14019-RWZ; Armetta v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14022-RWZ; Torbeck v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14023-RWZ; Kashi v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14026-RWZ; Bowman v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14028-RWZ; Dreisch v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14029-RWZ; Davis v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14033-RWZ; Farthing v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14036-RWZ

Box Hill Plaintiffs and the Box Hill Defendants hereby propose the following amended deadlines which both parties agree would be acceptable, if approved by the Court:

Completion of Common Issue Expert Depositions	March 17, 2017 (<i>Original date Dec 1, 2016</i>)
Each side to select 2 potential bellwether trial death cases and 2 potential bellwether trial living cases. The parties will submit their selections to the opposing side only, and not to the Court. Case specific discovery will begin for those cases.	March 17, 2017 (<i>Original date Dec 1, 2016</i>)
Close of Case Specific Fact Discovery for the parties' selected potential bellwether cases	June 1, 2017 (<i>Original date Feb 24, 2017</i>)
Each party to strike one case from each category of proposed bellwether cases (one death and one living case).	June 9, 2017 (<i>Original date March 30, 2017</i>)
Joint Filing of the names of 2 remaining potential bellwether cases in each category (living and deceased) and a Summary of all 8 Plaintiffs' Cases Against Box Hill Defendants The Court will select one death case and one living plaintiff case from the remaining bellwether pool cases to be tried as bellwether cases. ^{2 3}	June 23, 2017 (<i>Original date April 17, 2017</i>)
Plaintiffs' Case Specific Expert Reports Due for the 2 bellwether cases	30 days after the Court selects the 2 bellwether cases (<i>Original date April 14, 2017</i>)
Defendants' Case Specific Expert Reports Due for the 2 bellwether cases	60 days after the Court selects the 2 bellwether cases (<i>Original date May 12, 2017</i>)
Completion of Case-Specific Expert Depositions for the 2 bellwether cases	45 days after the Defendants' Case Specific Expert Reports are Served Upon Plaintiffs' Counsel(<i>Original date June 6, 2017</i>)

This schedule will allow additional time to complete necessary depositions and fact specific discovery for both parties. The proposed schedule also modifies the existing Scheduling Order which calls for the designation of 8 potential bellwether cases (there are only eight cases,

² While the parties agree on these deadlines, Defendants note that they are not waiving their position that the Box Hill cases should be remanded and tried in Maryland.

³ Following case specific fact discovery, Plaintiffs plan to ask the Court to reconsider trying more than one similar case together.

so each side has designated all 8 cases). The existing Order requires each side to strike 4 potential bellwether cases, which could result in the striking of all 8 cases. The parties believe that this part of the Scheduling Order was in place for a larger group of cases in this MDL, *i.e.*, the “Tennessee” cases. The parties stipulate that the requested modifications to the Second Amended Order Setting Discovery Deadlines, dated August 11, 2016 (Dkt. 3042), will not cause prejudice to the Box Hill Plaintiffs or the Box Hill Defendants in the pending cases.

WHEREFORE, as agreed to by the Court in principle during the December 2016 Status Conference, Box Hill Plaintiffs and Box Hill Defendants request that the deadlines set forth in Judge Boal’s August 11, 2016 Order be extended. The parties propose the dates in the attached proposed Order.

Dated: January 24, 2017

Respectfully submitted,

/s/ Patricia J. Kasputys

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CERTIFICATE OF SERVICE

I, Patricia J. Kasputys, certify that I caused a copy of the above Motion to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's System, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: January 24, 2017

Respectfully submitted,

/s/ Patricia J. Kasputys
Patricia J. Kasputys

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THIRD AMENDED ORDER SETTING DISCOVERY DEADLINEBoal, M.J.

Upon consideration of the parties' joint request for an extension of time, the Court amends the scheduling order and the discovery deadlines in the Box Hill cases as follows:

Completion of Common Issue Expert Depositions	March 17, 2017 (<i>Original date Dec 1, 2016</i>)
Each side to select 2 potential bellwether trial death cases and 2 potential bellwether trial living cases. The parties will submit their selections to the opposing side only, and not to the Court. Case specific discovery will begin for those cases.	March 17, 2017 (<i>Original date Dec. 1, 2016</i>)
Close of Case Specific Fact Discovery for the parties' selected potential bellwether trial cases	June 1, 2017 (<i>Original date Feb 24, 2017</i>)
Each Party to strike one case from each category of proposed bellwether cases (one death and one living case).	June 9, 2017 (<i>Original date March 30, 2017</i>)
Joint Filing of the names of 2 remaining potential bellwether cases in each category and a Summary of all 8 Plaintiffs' Cases Against Box Hill Defendants. The Court will select one death case and one living plaintiff case to be tried as bellwether cases. ^{5 6}	June 23, 2017 (<i>Original date April 17, 2017</i>)

⁴ This pleading applies to the following cases: Handy v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14019-RWZ; Arnetta v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14022-RWZ; Torbeck v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14023-RWZ; Kashi v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14026-RWZ; Bowman v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14028-RWZ; Dreisch v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14029-RWZ; Davis v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14033-RWZ; Farthing v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14036-RWZ

⁵ While the parties agree on these deadlines, Defendants note that they are not waiving their position that the Box Hill cases should be remanded and tried in Maryland.

Plaintiffs' Case Specific Expert Reports Due for 2 bellwether cases	30 days after the Court selects the 2 bellwether cases (<i>Original date April 14, 2017</i>)
Defendants' Case Specific Expert Reports Due for 2 bellwether cases	60 days after the Court selects the 2 bellwether cases (<i>Original date May 12, 2017</i>)
Completion of Case-Specific Expert Depositions for 2 bellwether cases	45 days after the Defendants' Case Specific Expert Reports are Served Upon Plaintiffs' Counsel (<i>Original date June 6, 2017</i>)

The parties shall seek leave of the court to move for summary judgment. By October 6, 2017, the party that seeks summary judgment shall file a motion for leave, not to exceed 5 pages, setting forth good cause for why a summary judgment motion should be allowed. Oppositions shall be filed within a week of the motion for leave and are limited to 5 pages. No replies will be entertained.

It is so Ordered.

JENNIFER C. BOAL
United States Magistrate Judge

⁶ Following case specific fact discovery, Plaintiffs plan to ask the Court to reconsider trying more than one similar case together.